IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7206 OF 2005
IN
CRIMINAL APPLICATION NO.7205 OF 2005
IN
CRIMINAL APPEAL NO. OF 2005

The State of Maharashtra ...Applicant

Versus

Kamal Mallikarjun Burkul & Anr. ...Respondents

WITH

MISC.APPLICATION NO.620 OF 2006
IN
CRIMINAL APPLICATION NO.7206 OF 2005
IN
CRIMINAL APPLICATION NO.7205 OF 2005

Shri Dinesh Pandurang Adsule ...Applicant
Versus
The State of Maharashtra & Ors. ...Respondents

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Mr.K.V.Saste, A.P.P. for Applicant in Cri.Appln. 7206/05 & for Respondent No.1 in Misc.Appln.620/06.

Mr.R.S.Apte with Mr.S.S.Kulkarni for Applicant in Misc.Appln.620/06.

Mr.Amin Solkar for Respondents in Cri.Appln.7206/05 & for Respondents 2 & 3 in Misc.Appln.620/06.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 21, 2007.

P.C.

1. Cri.Application No.7206/05 is for condoning delay in filing of Criminal Application No.7205/05. The circumstances in which the delay has occurred has been explained in the Application. Insofar as the Department is concerned, it is seen that soon after the order was passed by the lower Court, necessary steps were taken with promptitude and papers were forwarded to the Office of the Public Prosecutor on 9th April 2004. The incharge in the Office of the Public Prosecutor assigned the case to the panel Advocate on 15th September 2004, however, the Appeal came to be filed on 24th October 2005. In other words, the inaction is ascribable to the panel Advocate who was assigned with the work of drafting and facilitating filing of Appeal.

2. The State has filed further affidavit before this court sworn by Ms.Uma K.Surwade, Superintendent, Criminal Branch, Filing Section, Office of Public Prosecutor, High Court (A.S.), Mumbai dated 12th January 2007 reiterating the stand taken in the original application for condonation of delay and also providing for better

particulars as can be discerned from Paragraph 8 of the said affidavit.

3. Taking overall view of the matter, after hearing Counsel for the Respondents/accused, in the interest of justice, I am inclined to allow the Application No.7206/05. Accordingly, this Application succeeds in terms of prayer clause (a).

4. Insofar as Application preferred by the panel Advocate being Misc.Application No.620 of 2006 is concerned, as it is common ground that the Department has examined the representation of the panel Advocate and passed appropriate order on 13th October 2006. It is therefore, unnecessary for this Court to go into the contentious issues raised in the Application, which are countered on affidavit by the Superintendent of Office of the Public Prosecutor. Accordingly, this Application is disposed of without expressing any final opinion on the stand taken by the panel Advocate, who failed to draft and facilitate early filing of the appeal within period of limitation.

A.M.KHANWILKAR, J.